

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI

WELLS FARGO BANK,  
NATIONAL ASSOCIATION

Plaintiff,

vs.

Case No.: 4:19-cv-00454

MECHELLE MERCILLE  
Serve at: 412 Willow Creek Drive  
Farmington MO 63640

And

RYAN WALKER  
Serve at: 507 Log Cabin Rd.  
Farmington MO 63640

Defendants.

**VERIFIED COMPLAINT**

COMES NOW Plaintiff Wells Fargo Bank, National Association and for its Verified Complaint against Defendants Mechelle Mercille and Ryan Walker, states the following:

**PARTIES, VENUE AND JURISDICTION**

1. Plaintiff Wells Fargo Bank, National Association, (“**Plaintiff**”), is a national association chartered under the laws of the United States of America with its principal place of residence in the State of California.

2. Upon information and belief, Defendant Mechelle Mercille (“**Mercille**”) has a principal residence in St. Francois County, Missouri, at 412 Willow Creek Drive, Farmington MO 63640.

3. Upon information and belief, Defendant Ryan Walker (“**Walker**”) has a principal residence in St. Francois County, Missouri, at 507 Log Cabin Rd., Farmington MO 63640.

4. Jurisdiction and venue are proper with this Court in that the requirements of 28 U.S.C. § 1332 have been met, and Defendants reside within this District.

**FACTS COMMON TO ALL COUNTS**

**The Wellson Agreement, the Business Direct Credit Agreement and Guaranty Agreements**

5. On or about April 24, 2017, Gateway Wireless LLC (“**Borrower**”) executed and delivered to Wells Fargo a Wellson Commercial Card Agreement (the “**Wellson Agreement**”)(A true and correct copy of the Wellson Agreement is attached hereto as **Exhibit A** and is incorporated herein by this reference).

6. Contemporaneously with the execution of the Wellson Agreement, Defendant Mercille signed and delivered a Guaranty to Plaintiff (the “**Mercille Wellson Guaranty**”) (A true and correct copy of the Mercille Wellson Guaranty is incorporated into **Exhibit B**, and is incorporated herein by this reference).

7. Also contemporaneously with the execution of the Wellson Agreement, Defendant Walker signed and delivered a Guaranty to Plaintiff (the “**Walker Wellson Guaranty**”) (A true and correct copy of the Walker Wellson Guaranty is incorporated into **Exhibit C**, and is incorporated herein by this reference).<sup>1</sup>

8. The terms and conditions of the Wellson Agreement provide that Borrower was to make payments to Plaintiff on amounts owed for credit extended by Plaintiff to Borrower. **Ex. A.**

9. Pursuant to the Mercille Wellson Guaranty and Walker Wellson Guaranty, Defendants each individually agreed to guaranty, among other obligations as provided therein, the

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<sup>1</sup> The Wellson Agreement, Mercille Wellson Guaranty and Walker Wellson Guaranty and all other documents evidencing, securing, or relating to the Wellson Agreement made by Plaintiff to Borrower, are collectively referred to herein as the “**Wellson Loan Documents.**”

repayment of all obligations pursuant to the Wellstone Agreement, whether then existing or arising thereafter, owed to Plaintiff, by Borrower. **Ex. B.**

10. Pursuant to the Mercille and Walker Wellstone Guaranty Agreements, Defendants agreed to pay all reasonable fees and expenses, including attorneys' fees and expenses, incurred on behalf of Plaintiff to enforce Plaintiff's rights under the Guaranty Agreement. **Ex. B.**

11. On or about February 1, 2017, Borrower, Mercille and Walker also executed and delivered to Wells Fargo a Business Direct Credit Agreement and Personal Guarantee (the "**Business Direct Agreement**") (A true and correct copy of the Business Direct Agreement is attached hereto as **Exhibit D** and is incorporated herein by this reference).

12. As stated on the face of the Business Direct Agreement, the agreement served as both an agreement for the use of a Business Direct credit card, as well as the personal guarantees of both Mercille and Walker. **Ex. D.**

13. The terms and conditions of the Business Direct Agreement provide that Borrower was to make payments to Plaintiff on amounts owed for credit extended by Plaintiff to Borrower. **Ex. D.**

14. Pursuant to the Business Direct Agreement, Defendants are each individually agreed to guaranty, among other obligations as provided therein, the repayment of all obligations pursuant to the Business Direct Agreement, whether then existing or arising thereafter, owed to Plaintiff, by Borrower. **Ex. D.**

15. Pursuant to the Business Direct Agreement, Defendants agreed to pay all reasonable fees and expenses, including attorneys' fees and expenses, incurred on behalf of Plaintiff to enforce Plaintiff's rights under the Business Direct Agreement. **Ex. D.**

16. Plaintiff relied on the personal guarantees included within the Business Direct Agreement when entering into that agreement.

**Non-payment, Default and Acceleration**

17. Under the Wellstone Agreement, Borrower was obligated to make payments to Plaintiff. **Ex. A.**

18. Under the Business Direct Agreement, Borrower was obligated to make payments to Plaintiff. **Ex. D.**

19. Borrower failed to make certain payments to Plaintiff in accordance with the terms of the Wellstone Agreement as well as the Business Direct Agreement and is in default of its obligations under each such agreement.

20. On October 12, 2018, Borrower filed for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code, and that bankruptcy is currently pending in the Southern District of Illinois District Court, styled *In re Gateway Wireless, LLC*, Case No. 18-31491-lkg, constituting another event of default under each such agreement.

21. Plaintiff sent demand letters (the “**Demand Letters**”) to Defendants demanding the immediate and full payment of the remaining amounts due under the Wellstone Agreement and Business Direct Agreement (True and correct copies of the Demand Letters are attached hereto as **Exhibit E**, and are incorporated herein by this reference).

22. The indebtedness that is due under the Wellstone Agreement and Business Direct Agreement has been accelerated and is presently due, including all attorney’s fees and costs that Plaintiff has incurred.

**Default of the Mercille Guaranty**

23. Pursuant to the terms of the Mercille Wellstone Guaranty and Business Direct Agreement, Defendant Mercille promised to guaranty obligations owed to Plaintiff by Borrower, which include, without limitation, payment of all amounts due under the Wellstone Agreement and Business Direct Agreement. **Ex. B; Ex. D.**

24. Pursuant to the terms of the Mercille Wellstone Guaranty and Business Direct Agreement, Defendant promised to pay Plaintiff for all costs that it incurs in collecting the sums due under the Wellstone Agreement and Business Direct Agreement from Plaintiff to Borrower, as well as the Mercille Wellstone Guaranty, including, without limitation, attorneys' fees and costs. **Ex. B; Ex. D.**

25. Despite demand, Defendant Mercille has not responded and has failed to pay Plaintiff the amounts due and owing under the Wellstone Loan Documents or Business Direct Agreement.

**Default of the Walker Guaranty**

26. Pursuant to the terms of the Walker Wellstone Guaranty and Business Direct Agreement, Defendant Walker promised to guaranty obligations owed to Plaintiff by Borrower, which include, without limitation, payment of all amounts due under the Wellstone Agreement and/or Business Direct Agreement. **Ex. C; Ex. D.**

27. Pursuant to the terms of the Walker Wellstone Guaranty and Business Direct Agreement, Defendant promised to pay Plaintiff for all costs that it incurs in collecting the sums due under the Wellstone Agreement and Business Direct Agreement from Plaintiff to Borrower, as well as the Walker Wellstone Guaranty, including, without limitation, attorneys' fees and costs. **Ex. C; Ex. D.**

28. Despite demand, Defendant Walker has not responded and has failed to pay Plaintiff the amounts due and owing under the Wellstone Loan Documents and Business Direct Agreement.

**COUNT I – BREACH OF GUARANTY AGREEMENT**  
**AGAINST MICHELLE MERCILE –WELLSTONE GUARANTY**

29. Plaintiff restates and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint.

30. Defendant Mercile is in default of her obligations to Plaintiff under the terms of the Mercile Wellstone Guaranty.

31. Plaintiff demanded that Defendant Mercile pay all sums that Borrower failed to pay under the Wellstone Agreement, but to date Defendant Mercile has not made payment. *See Ex. E.*

32. Defendant Mercile is in default of her obligations to Plaintiff based upon her payment breaches under the Mercile Wellstone Guaranty.

33. All indebtedness that Defendant Mercile owes under the Mercile Wellstone Guaranty is currently due and owing to Plaintiff.

34. Plaintiff has incurred, and continues to incur, costs and expenses, including attorneys' fees and expenses, in collecting the sums due under the Wellstone Agreement for which Defendant Mercile is liable.

35. After applying all payments and credits to which Defendant Mercile is entitled, Defendant Mercile owes Plaintiff \$230,386.96 as of October 12, 2018 and attorney's fees, costs, expenses and other charges assessable to Defendant Mercile under the Wellstone Loan Documents as well as post-judgment interest.

**WHEREFORE** Plaintiff Wells Fargo Bank, National Association respectfully requests that the Court enter a judgment in its favor and against Defendant Mechelle Mercille on Count I in the amount of \$230,386.96 as of October 12, 2018, as well as attorney's fees, costs, expenses and other charges assessable to Defendant Mercille under the Wellstone Loan Documents, and for such other and further relief as the Court deems just and proper.

**COUNT II – BREACH OF GUARANTY AGREEMENT**  
**AGAINST RYAN WALKER –WELLSTONE GUARANTY**

36. Plaintiff restates and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint.

37. Defendant Walker is in default of his obligations to Plaintiff under the terms of the Walker Wellstone Guaranty.

38. Plaintiff demanded that Defendant Walker pay all sums that Borrower failed to pay under the Wellstone Agreement, but to date Defendant Walker has not made payment. *See Ex. E.*

39. Defendant Walker is in default of his obligations to Plaintiff based upon his payment breaches under the Walker Wellstone Guaranty.

40. All indebtedness that Defendant Walker owes under the Walker Wellstone Guaranty is currently due and owing to Plaintiff.

41. Plaintiff has incurred, and continues to incur, costs and expenses, including attorneys' fees and expenses, in collecting the sums due under the Wellstone Loan Documents for which Defendant Walker is liable.

42. After applying all payments and credits to which Defendant Walker is entitled, Defendant Walker owes Plaintiff \$230,386.96, plus future accruing interest after October 12, 2018 and attorney's fees, costs, expenses and other charges assessable to Defendant under the Wellstone Loan Documents.

**WHEREFORE** Plaintiff Wells Fargo Bank, National Association, respectfully requests that the Court enter a judgment in its favor and against Defendant Ryan Walker on Count II in the amount of \$230,386.96 as of October 12, 2018, in addition to attorney's fees, costs, expenses and other charges assessable to Defendant Walker under the Wellstone Loan Documents, and for such other and further relief as the Court deems just and proper.

**COUNT III – BREACH OF GUARANTY AGREEMENT**  
**AGAINST MICHELLE MERCILLE –BUSINESS DIRECT AGREEMENT**

43. Plaintiff restates and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint.

44. Defendant Mercille is in default of her obligations to Plaintiff under the terms of the Business Direct Agreement.

45. Plaintiff demanded that Defendant Mercille pay all sums that Borrower failed to pay under the Loan, but to date Defendant Mercille has not made payment. *See Ex. E.*

46. Defendant Mercille is in default of her obligations to Plaintiff based upon her payment breaches under Business Direct Agreement.

47. All indebtedness that Defendant Mercille owes under the Business Direct Agreement is currently due and owing to Plaintiff.

48. Plaintiff has incurred, and continues to incur, costs and expenses, including attorneys' fees and expenses, in collecting the sums due under the Business Direct Agreement for which Defendant Mercille is liable.

49. After applying all payments and credits to which Defendant Mercille is entitled, Defendant Mercille owes Plaintiff \$100,827.07 as of October 12, 2018, as well as attorney's fees, costs, expenses and other charges assessable to Defendant Mercille under the Business Direct Agreement.



**WHEREFORE** Plaintiff Wells Fargo Bank, National Association respectfully requests that the Court enter a judgment in its favor and against Defendant Mechelle Mercille on Count III in the amount of \$100,827.07 as of October 12, 2018, and attorney's fees, costs, expenses and other charges assessable to Defendant Mercille under the Business Direct Agreement, and for such other and further relief as the Court deems just and proper.

**COUNT IV – BREACH OF GUARANTY AGREEMENT**  
**AGAINST RYAN WALKER –BUSINESS DIRECT GUARANTY**

50. Plaintiff restates and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint.

51. Defendant Walker is in default of his obligations to Plaintiff under the terms of the Business Direct Agreement.

52. Plaintiff demanded that Defendant Walker pay all sums that Borrower failed to pay under the Business Direct Agreement, but to date Defendant Walker has not made payment. *See Ex. E.*

53. Defendant Walker is in default of his obligations to Plaintiff based upon his payment breaches under the Business Direct Agreement.

54. All indebtedness that Defendant Walker owes under the Business Direct Agreement is currently due and owing to Plaintiff.

55. Plaintiff has incurred, and continues to incur, costs and expenses, including attorneys' fees and expenses, in collecting the sums due under the Business Direct Agreement for which Defendant Walker is liable.

56. After applying all payments and credits to which Defendant Walker is entitled, Defendant Walker owes Plaintiff \$100,827.07, plus future accruing interest and late fees after

October 12, 2018, and attorney's fees, costs, expenses and other charges assessable to Defendant Walker under the Business Direct Agreement.

**WHEREFORE** Plaintiff Wells Fargo Bank, National Association respectfully requests that the Court enter a judgment in its favor and against Defendant Ryan Walker on Count IV in the amount of \$100,827.07 as of October 12, 2018, in addition to attorney's fees, costs, expenses and other charges assessable to Defendant Walker under the Business Direct Agreement, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

LATHROP GAGE LLP

*/s/ Emily E. Cantwell*

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*Attorneys for Plaintiff*

## VERIFICATION

STATE OF IOWA

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) ss.

COUNTY OF POLK

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Victor M. Dutchuk, Jr., being first duly sworn upon his oath, states that he is an Assistant Vice President in the Credit Management Group for Wells Fargo Bank, National Association, that Wells Fargo Bank, National Association, authorizes him to verify the above Complaint, and that the factual allegations contained therein are true and correct to the best of his knowledge and belief.

**Wells Fargo Bank, National Association**

By:

Victor M. Dutchuk, Jr.  
Assistant Vice President,  
Credit Management Group

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my  
office in Des Moines, IA, this 14<sup>th</sup> day of March 2019.

Phillip J. Beshear  
Notary Public in and for Said County and

My Commission Expires:

1-25-20

